

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

M.F.A.No.48 of 2000

M.V.O.P.437/1995 OF MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR

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APPELLANT/PETITIONER:-

K.G.GOPINATH, S/O.K.K.GOVINDAN, KOCHATHU HOUSE,
P.O.KANDASANKADAVU, THRISSUR.

BY ADV. SRI.P.T.GOVINDAN

RESPONDENTS/RESPONDENTS:-

- * 1. T.C.JOSEPH, S/O.CHACKO, THEKKANATHU HOUSE,
KIZHUPPILLIKKARA, THRISSUR (**DELETED**)
- 2. K.K.NANDANAN, S/O.KUNJIKUTTAN, KATTINGAL HOUSE,
KIZHU PILLIKKARA, THRISSUR DISTRICT.
- 3. UNITED INDIA INSURANCE CO. LTD., BRANCH OFFICE,
SREEKUMAR BUILDING, CHALAKUDY.
- * THE NAME OF THE 1ST RESPONDENT IS DELETED FROM PARTY
ARRAY AT THE RISK OF THE PETITIONER, VIDE ORDER DATED
21.3.2007 IN I.A.NO.572/2007).

R3 BY ADV. SMT.K.C.BEENA.

THIS MISCELLANEOUS FIRST APPEAL HAVING BEEN FINALLY
HEARD ON 10/04/2007, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:-

K.Padmanabhan Nair,J.

M.F.A.No.48 of 2000

Dated, this the 10th day of April, 2007

JUDGMENT

The petitioner in M.V.O.P.No.437 of 1995 on the file of Motor Accidents Claims Tribunal, Thrissur is the appellant. The appellant met with an accident on 29.4.1994. He sustained injuries. He filed the Original Petition claiming compensation from the owner, driver and the Insurer of a taxi car bearing registration No.KL-8/C 3630. The Tribunal found that the accident occurred due to the negligent driving of the car by its driver and the petitioner is entitled to get a compensation of Rs.66,125/- with interest at 10% per annum. The 3rd respondent-Insurer was directed to pay the amount. Complaining inadequacy of the compensation awarded, the claimant has filed this appeal.

2. It is contended by the counsel for the appellant that the appellant had produced Exhibit A7 salary certificate, which shows that the appellant was getting a monthly salary of Rs.3,375/-. It is contended that though there is evidence to show that the appellant was completely bed ridden for a period of six months, the Tribunal awarded compensation for loss of earning

only for three months and no compensation was awarded for the remaining three months. It is also contended that in spite of Exhibit A7, Tribunal fixed a notional income of Rs.15,000/- per year and awarded compensation.

3. Considering all aspects of the matter, I am of the view that the appellant is entitled to get some more amount as additional compensation. It is seen that the Tribunal has awarded an amount of Rs.12,000/- for pain and suffering. It ought to have awarded at least Rs.15,000/-. So, I am awarding an additional compensation of Rs.3,000/- on that count. I am also of the view that the Tribunal ought to have awarded compensation for loss of earning at least for four months. So, in addition to the compensation of Rs.10,125/- awarded towards loss of earning, an additional amount of Rs.3,375/- is awarded on that count. In view of Exhibit A7 salary certificate, there is no justification in taking a notional income. The Tribunal ought to have at least taken Rs.2,000/- as income of the appellant for fixing the disability and the compensation had to be calculated taking the yearly income as Rs.24,000/-. So, the compensation awarded on that count is revised as Rs.38,400/- ($24000 \times 16 \times 10 / 100$). Thus, the appellant is entitled to an additional compensation of

Rs.14,400/- for permanent disability. The Tribunal ought to have awarded Rs.225/- for transportation to hospital. I award that amount also. Thus, a total amount of Rs.21,000/- is awarded to the appellant in addition to the compensation already awarded.

In the result, the appeal is allowed in part, allowing the appellant to recover an additional amount of Rs.21,000/- (Rupees twenty one thousand only) with interest at the rate of 7% per annum from the date of petition till realisation. The 3rd respondent-Insurer is directed to pay the additional compensation also.

K.Padmanabhan Nair
Judge

vku/-